

WILLIAM C. BUZHARDT,

Plaintiff,

v.

**DIVERSIFIED MAINTENANCE
SYSTEMS, LLC d/b/a
DIVERSIFIED MAINTENANCE
– RWS, LLC,**

Defendant.

CASE NO.: 2:17-cv-01010-JEO

UNOPPOSED

MOTION TO STAY SUMMARY JUDGMENT BRIEFING
DEADLINES UNTIL THE COURT RULES ON
PLAINTIFF’S MOTION TO AMEND THE COMPLAINT

Plaintiff William Buzhardt (“Plaintiff”) respectfully moves the Court for an Order staying summary judgment briefing deadlines (and all subsequent deadlines) until the Court rules on Plaintiff’s forthcoming Motion to Amend the Complaint.¹

As grounds for this Motion, Plaintiff states as follows:

1. The parties agreed in the Rule 26(f) Report of Parties' Planning Meeting that "Plaintiff shall have thirty (30) days in which to respond" to Defendant's Motion for Summary Judgment. (*See* doc. 14, p. 10).

¹ Plaintiff will submit his Motion to Amend the Complaint, along with a proposed Amended Complaint, shortly after filing this Motion. He files this Motion to Stay first only because of the time sensitive nature of the request.

2. The Court's Scheduling Order did not address the parties' agreed upon thirty (30) day summary judgment response time and, instead, referred the parties to the Initial Order for "specific briefing and submission requirements for dispositive motions." (Doc. 15, p. 1, n.1).

3. The Court's Initial Order states that Plaintiff has twenty-one (21) days to respond to Defendant's Motion for Summary Judgment, and Defendant then has fourteen (14) days to reply to Plaintiff's response.

4. Discovery is now closed, and Defendant has filed a Motion for Summary Judgment.

5. Based on the parties' Rule 26(f) proposal, Plaintiff's response opposing summary judgment is due October 21, 2019. Based solely on the Initial Order, however, Plaintiff's response is due on Thursday, October 10, 2019.

6. Upon reviewing Defendant's evidentiary submission, Plaintiff believes there is good cause to amend the complaint and include a Retaliation claim, and he further believes that "justice so requires" an amendment. *See* Fed. R. Civ. P. 15(a)(2).

7. Plaintiff will file his Motion to Amend the Complaint, along with the Amended Complaint, shortly after filing this Motion. Plaintiff does not seek to reopen discovery. Rather, he simply asks the Court to allow an amendment which conforms to the evidence obtained during discovery.

8. Defendant vehemently opposes Plaintiff's Motion to Amend.

9. But Defendant does not oppose this Motion to Stay provided Plaintiff agrees (and he does) that Defendant should be allowed to amend its Motion for Summary Judgment to address claims reflected in an amended pleading if the Court permits an amendment.

Accordingly, based on the parties' agreement, Plaintiff respectfully requests that the Court enter an Order STAYING summary judgment briefing deadlines, and any subsequent deadlines, until the Court rules on Plaintiff's Motion to Amend the Complaint. If the Court permits Plaintiff to amend the Complaint, Plaintiff requests that the Court reset the dispositive motion briefing schedule, which will allow Defendant an opportunity to amend its motion for summary judgment and the supporting brief.

Respectfully submitted,

/s/ Alicia K. Haynes

Alicia K. Haynes
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CERTIFICATE OF SERVICE

I hereby certify that on this the 8th day of October, 2019, a true and correct copy of the foregoing has been served via the Court's CM/ECF filing system on the following counsel of record.

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